

**APR 27 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

SHAWNTE DARNELL GULLEDGE,

Petitioner - Appellant,

v.

STUART J. RYAN, Warden,

Respondent - Appellee.

No. 05-16526

D.C. No. CV-04-02065-WHA

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Northern District of California  
William H. Alsup, District Judge, Presiding

Argued and Submitted April 4, 2006  
San Francisco, California

Before: NOONAN, SILER<sup>\*\*\*</sup>, and BYBEE, Circuit Judges.

As the district court held, Gulledge's rights were violated by the admission of any portion of the statements made by his two co-defendants. In light of the substantial evidence of lack of consent by the victim and the physical evidence

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*\*</sup> The Honorable Eugene E. Siler, Jr., Senior United States Circuit Judge for the Sixth Circuit, sitting by designation.

showing that the two co-defendants had acted in concert with Gullledge, the error in admitting their statements has not been shown to have had “a substantial and injurious effect or influence in determining the jury’s verdict.” *Brecht v. Abrahamson*, 507 U.S. 619, 637 (1993).

AFFIRMED.